

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BO SHEN

Appeal 2007-1117
Application 09/825,495
Technology Center 2100

Decided: April 30, 2007

Before KENNETH W. HAIRSTON, JEAN R. HOMERE, and JOHN A. JEFFERY, *Administrative Patent Judges*.

HAIRSTON, *Administrative Patent Judge*.

DECISION ON APPEAL
STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134 from the final rejection of claims 1 to 25. We have jurisdiction under 35 U.S.C. § 6(b).

Appellant has invented a network and method for dynamically and intelligently routing a user's requests for services via an ingress server to

one of at least two application service provider servers that provide two different types of application service (Figure 1; Specification 2 and 22).

Claim 1 is representative of the claims on appeal, and it reads as follows:

1. A network configured to dynamically and intelligently route requests for services provided by service provider servers, comprising:

a computing device utilizing an Internet provided (ISP) to communicate over the network;

an association of at least two application service provider servers coupled with said network, said association comprising:

a first application service provider for providing a first type of application service; and

a second application service provider for providing a second type of application service, wherein said first type of application service is different than said second type of application service;

an ingress server configured to receive a request for an application service from the computing device over an established network connection;

service routing server utilizing a predetermined application criteria to intelligently select one of said at least two application service provider servers based on said application request received from said computing device, and intelligently routing the computing device application service request over the network to the selected application service provider server to perform the requested application service; and

an application service provider server register configured to maintain current application service provider server information for at least one of

said at least two application service provider servers providing said application services.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Duursma

US 6,643,690 B2

Nov. 4, 2003
(filed Feb. 18, 1999)

The Examiner rejected claims 1 to 25 under 35 U.S.C. § 102(e) based upon the teachings of Duursma.

Appellant contends that Duursma does not describe “the feature of a service routing server utilizing a predetermined application criteria to intelligently select one of the at least two application service provider servers based on the application request received from the computing device, and intelligently routing the computing device application service request over the network to the selected application service provider server to perform the requested application service” (Br. 12). Appellant also contends that Duursma does not teach “developing a register for said application service provider, said register qualifying said application servers based on the parameters of the services provided by the application service providers” (Br. 16).

We hereby sustain the rejection of record.

ISSUES

Does Duursma describe the feature of intelligently selecting an application service provider server based on a user’s service request, and intelligently routing the service request to the selected application service provider server to perform the request?

Does Duursma describe a register that qualifies the application servers based on the parameters of the services provided by the application service providers?

FINDINGS OF FACT

Appellant discloses a network (Figure 1) that is configured to route a request for service by client 102 via an ingress server 104 to at least two application service provider servers (e.g., 114 and 122) that provide two different types of service. Each of the service routing servers (e.g., 110 and 112) uses a predetermined application criteria to intelligently select one of the at least two application service provider servers based on the user's request, and intelligently routes the request to the selected application service provider server to perform the requested application service. Appellant provides a register that qualifies the application servers based on the parameters of the services provided by the application service providers.

Duursma describes a network (Figure 3B) that is configured to route a request for service by client 20 via an ingress server 32 to at least two application service provider servers 34 and 36 (col. 8, ll. 42 to 57). A service routing server 30 uses a predetermined application criteria (e.g., load-balancing and application program availability) to intelligently select one of the at least two application service provider servers based on the user's request, and intelligently routes the request to the selected application service provider server to perform the requested application service using either the second application program in application service provider server 34 or the third application program in application service provider server 36 (col. 8, ll. 58 to 67).

An application database 48 in the service routing server 30 in Duursma includes a list of application servers, and each server in the list has an associated set of applications (col. 10, ll. 56 to 58). Each application is associated with “application-related information that can include the application name, a list of servers, and client users that are authorized to use that application” (col. 10, ll. 58 to 61). The application database 48 can be located at any of the other servers in the network disclosed by Duursma (col. 10, ll. 41 to 50; col 15, ll. 5 to 9). Thus, Duursma describes a storage means/register that pre-qualifies users based upon the parameters of the services offered by the application servers (col. 11, ll. 12 to 31).

PRINCIPLES OF LAW

Anticipation is established when a single prior art reference discloses expressly or under the principles of inherency each and every limitation of the claimed invention. *Atlas Powder Co. v. IRECO Inc.*, 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1946 (Fed. Cir. 1999); *In re Paulsen*, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

During *ex parte* examination of an application, claims are given their broadest reasonable interpretation consistent with the specification. *In re Graves*, 69 F.3d 1147, 1152, 36 USPQ2d 1697, 1701, (Fed. Cir. 1995); *In re Etter*, 756 F.2d 852, 858, 225 USPQ 1, 5 (Fed. Cir. 1985). The claims on appeal are not confined to embodiments specifically described in the specification. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1323, 75 USPQ2d 1321, 1334 (Fed. Cir. 2005) (*en banc*).

ANALYSIS

As indicated supra, Duursma does describe the claimed feature of intelligently selecting an application service provider server based on a

user's service request, and intelligently routing the service request to the selected application service provider server to perform the request. Nothing in the claims on appeal requires that the criteria used by Duursma for making the intelligent selection must be the same criteria set forth in the specification disclosed by Appellant.

With respect to the claimed register, the application database 48 in Duursma performs the claimed function. The parameters set forth in the specification are not in the claims on appeal, and we will not import them into the claims (Reply Br. 5).

CONCLUSION OF LAW

Anticipation has been established by the Examiner because Duursma intelligently selects and routes a user's request to an application service provider server, and Duursma describes a database that operates like the claimed register.

DECISION

The anticipation rejection of claims 1 to 25 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv).

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AFFIRMED

ELD

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